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Reinhart Boerner Van Deuren s.c.

By: Peter J. Manghera

Signature: Peter J. Manghera

Date: April 3, 2007

Appl. No.: 10/791,112  
Applicant: Thomas M. Wascher  
Filed: 03-02-2004  
TC/A.U.: 3731  
Examiner: Tyson, Melanie Ruano

Confirmation No.: 2457

Docket No.: 7899  
Customer No.: 22922

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### **RE-TRANSMITTAL OF RESPONSE**

Sir:

Applicant filed a Response to the non-final Office Action of July 5, 2006, in the above-identified application on January 5, 2007. The Response filed on that date included an appropriate Petition for Extension of Time, was addressed as set out in 37 C.F.R. § 1.1(a), was deposited with the U.S. Postal Service with sufficient postage as first class mail on that date, and included a Certificate of Mailing as prescribed in 37 C.F.R. § 1.8(a)(1)(ii). Therefore, it is respectfully submitted that the Response as filed on January 5, 2007, was timely filed in accordance with 37 C.F.R. § 1.8(a).

On March 16, 2007, applicant's undersigned attorney was notified via telephone by Examiner Melanie Tyson that no response to the Office Action of July 5, 2006, had been received by the U.S. Patent and Trademark Office. The Examiner requested that the Response of January 5, 2007, be re-filed.

Attached hereto, therefore, is a copy of the Response as filed on January 5, 2007, including the Certificate of Mailing as required under 35 U.S.C. § 1.8(a)(1)(ii), and the Transmittal Form, Fee Transmittal, and Petition for Extension of Time as filed along with the Response on that same date.

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/791,112	
	Filing Date	03-02-2004	
	First Named Inventor	Thomas M. Wascher	
	Art Unit	3731	
	Examiner Name	Tyson, Melanie Ruano	
Total Number of Pages in This Submission		Attorney Docket Number	7899

**ENCLOSURES (check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form (Copy)  <input type="checkbox"/> Fee Attached  <input checked="" type="checkbox"/> Response/Amendment / Reply (Copy)  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input checked="" type="checkbox"/> Extension of Time Request (Copy)  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application  <input type="checkbox"/> Reply to Missing Parts under 37 CFR1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____  <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  Return Postcard Re-Transmittal of Response Transmittal Form (Copy) Return Postcard (Copy)
<b>Remarks</b>		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm	Reinhart Boerner Van Deuren s.c.		
Signature			
Printed Name	Peter J. Manghera		
Date	April 3, 2007	Reg. No.	40,080

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment; Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Peter J. Manghera	Date	April 3, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Amendment; Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

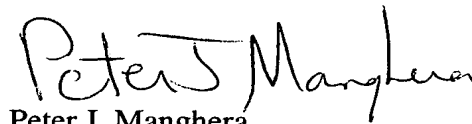
Dependent Claims 2-8 depend, either directly or indirectly, from Claim 1, as amended, and incorporate the features thereof. Therefore, it is respectfully submitted that Claims 2-8 are also in condition for allowance.

Independent Claim 9 has been amended, in a manner similar to Claim 1, to be drawn to a flexible marking catheter system for placement in a selected position in a body using a frameless stereotaxy system. Claim 9, as amended, features a frameless stereotaxy system probe, a flexible catheter body made of a flexible material and having a closed distal end and an open proximal end and sized to removably fit on the frameless stereotaxy system probe and mounted on the frameless stereotaxy system probe such that the catheter remains on the probe as the catheter is positioned in the body using the probe and such that the probe is removable from the catheter without moving the catheter after the catheter is positioned in the body using the probe, a flange at the open proximal end of the flexible catheter body to facilitate removing the probe from the catheter after the catheter is positioned in the body using the probe, and length indicia visible on an outer surface of the flexible catheter body indicating distances along the catheter body from the distal end thereof.

It is respectfully submitted that Claim 9, as amended, and Claims 10-14 which depend therefrom, and incorporate the features thereof, is allowable over the cited references for the same reasons as discussed above with reference to Claim 1.

Thus, it is respectfully submitted that Claims 1-14, as amended are in condition for allowance. Favorable action on the present application is respectfully requested.

Respectfully submitted,

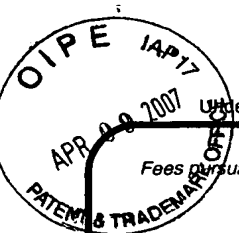


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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

## FEE TRANSMITTAL for FY 2006

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 510.00

### Complete If Known

Application Number	10/791,112
Filing Date	03/02/2004
First Named Inventor	Thomas M. Wascher
Examiner Name	Tyson, Melanie Ruano
Art Unit	3731
Attorney Docket No.	7899

### METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 18-0882 Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) ☐ Credit any overpayments

Under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

#### 2. EXCESS CLAIM FEES

##### Fee Description

Each claim over 20 (including Reissues)

Fee (\$) 50  
Small Entity Fee (\$) 25

Each independent claim over 3 (including Reissues)

200 100

Multiple dependent claims

360 180

**Total Claims** **Extra Claims** **Fee(\$)** **Fee Paid (\$)**

**Multiple Dependent Claims**

\_\_\_\_\_ -20 or HP= \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

**Fee (\$)** **Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20.

**Indep. Claims** **Extra Claims** **Fee(\$)** **Fee Paid (\$)**

\_\_\_\_\_ - 3 or HP= \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

**Total Sheets** **Extra Sheets** **Number of each additional 50 or fraction thereof** **Fee (\$)** **Fee Paid (\$)**

\_\_\_\_\_ - 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge) : Extension of Time fee

**Fees Paid (\$)**

510.00

### SUBMITTED BY

Signature	<i>Peter J. Manghera</i>	Registration No. (Attorney/Agent)	40,080	Telephone	608-229-2228
Name (Print/Type)	Peter J. Manghera			Date	January 5, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Re: U.S. Application for Patent of: Marking Catheter  
for Placement Using Frameless Stereotaxy & Use Thereof  
Inventor: Thomas M. Wascher

The following dated January 5, 2007, has been received in  
the U.S. Patent and Trademark Office on the DATE STAMPEI  
hereon:

- X Transmittal Form
- X Fee Transmittal Form
- X Response
- X Extension of Time Request
- X Return Postcard

Sent via first class mail

Peter J. Manghera  
Attorney's Name

40,080  
Reg. No.

7899  
Docket No.

**DOCKETED**

1/8/07 *me/c*

Independent Claim 1, as amended, is drawn to a flexible marking catheter system for placement in a selected position in a body using a frameless stereotaxy system. Claim 1, as amended, features a frameless stereotaxy system probe, and a flexible catheter body made of a flexible material and having a closed distal end and an open proximal end and sized to removably fit on the frameless stereotaxy system probe and mounted on the frameless stereotaxy system probe such that the catheter remains on the probe as the catheter is positioned in a body using the probe and such that the probe is removable from the catheter without moving the catheter after the catheter is positioned in the body using the probe.

It is respectfully submitted that there are several distinctions between Claim 1, as amended, and the teachings of Kieturakis. Claim 1 as amended features a flexible catheter mounted on a stereotaxy system probe. Although Kieturakis describes a disposable sheath for a medical instrument as described therein, frameless stereotaxy or a frameless stereotaxy system are not mentioned in Kieturakis. Thus, it is respectfully submitted that Kieturakis does not describe or suggest mounting the disposable sheath described therein on a frameless stereotaxy system probe, and thus does not describe or suggest a flexible catheter mounted on a stereotaxy system probe, as featured in Claim 1.

Furthermore, Claim 1 features a flexible catheter mounted on the frameless stereotaxy system probe such that the probe is removable from the catheter without moving the catheter after the catheter is positioned in the body using the probe. Kieturakis does not describe or suggest that the intraluminal member described therein may be removed from the disposable sheath described therein after the disposable sheath is positioned in a body. Thus, it is respectfully submitted that Kieturakis also does not describe or suggest a catheter mounted on a frameless stereotaxy system probe such that the probe is removable from the catheter without moving the catheter after the catheter is positioned in the body using the probe, as featured in Claim 1.

It is respectfully submitted that none of the other cited references mention frameless stereotaxy or a catheter mounted on a frameless stereotaxy system, as featured in Claim 1, as amended.

For the foregoing reasons, it is respectfully submitted that Claim 1, as amended, is not anticipated by, or unpatentably obvious in view of, Kieturakis considered either alone or in combination with any of the other cited references. Therefore, it is respectfully submitted that Claim 1, as amended, is in condition for allowance.